

# **TITLE 36**

## **Public Officers and Employees**

### **CHAPTER 36-11**

#### **Organization of State Employees**

##### **SECTION 36-11-1**

**§ 36-11-1 Right to organize – Bargaining representatives.** – (a) State employees, except for casual employees or seasonal employees, shall have the right to organize and designate representatives of their own choosing for the purpose of collective bargaining with respect to wages, hours, and other conditions of employment. State employees, as used in this chapter, shall include employees and members of the department of state police below the rank of lieutenant.

(b) The representatives of state employees are hereby granted the right to negotiate with the chief executive or his or her designee (appointed, elected, or possessing classified status) on matters pertaining to wages, hours, and working conditions.

(c) The chief executive or his or her designee (appointed, elected, or possessing classified status) is hereby authorized and required to recognize an organization designated by state employees for the purpose of collective bargaining as the collective bargaining agency for its members.

**§ 36-11-1.1 Definitions.** – The following terms as used in this chapter shall have the following meaning:

(1) "Casual employees" shall mean those persons hired for an occasional period to perform special jobs or functions not necessarily related to the work performed by the regular employees in the collective bargaining unit.

(2) "Seasonal employees" shall mean those persons employed in positions which are part of an annual job employment program.

**§ 36-11-2 Discrimination because of membership in employee organization prohibited.** – There shall be no discrimination against any state employee because the employee has formed, joined, or chosen to be represented by any labor organization or employee organization. Membership in any employee organization may be determined by each individual employee; provided, however, that in areas where employees have selected an exclusive bargaining representative organization, all nonmembers of the exclusive bargaining representative organization shall pay to the exclusive employee organization a service charge as a contribution toward the negotiation and administration of any collective bargaining agreement in an amount equal to the regular biweekly membership dues of the organization, with the state controller

being hereby directed upon certification of the exclusive bargaining organization to deduct biweekly from the employee's salary the above amount and remit the amount to the treasurer of the exclusive bargaining organization. Supervisory employees shall not endorse any particular employee organization or, by reason of membership in any organization, show prejudice or discriminate toward any individual employee.

**§ 36-11-3 Action on grievances.** – It shall be the responsibility of supervisors at all levels to consider, and commensurate with authority delegated by the head of the state department or agency, to take appropriate action promptly and fairly upon the grievances of their subordinates. To this end, appropriate authority shall be delegated to supervisors by the heads of all state departments or agencies. It shall be the duty of the chief executive or his or her designee (appointed, elected, or possessing classified status) to exert every reasonable effort to settle disputes involving hours, wages, and working conditions, by collective negotiations with designated employee organizations, and to reduce any and all agreements to writing in the form of signed collective bargaining agreements. The agreements shall be deemed lawful documents.

**§ 36-11-4 Applicability.** – The provisions of this chapter and the procedures established hereunder shall be applicable in any state department or agency to conditions which are in whole or part subject to the control of the head of the department or agency and which involve conditions of employment.

**§ 36-11-5 [Repealed].** –

**§ 36-11-6 Powers of representative organizations.** – Organizations representing state employees, firefighters as defined in § 28-9.1-3, and police officers as defined in § 28-9.2-3, shall enjoy all the benefits of and be subject to all the provisions of chapter 7 of title 28, except that those employees shall not have the right to strike.

**§ 36-11-7 Obligation to bargain.** – It shall be the obligation of the chief executive or his or her designee (appointed, elected, or possessing classified status) to meet and confer in good faith with the representatives of the state employees' bargaining agent within ten (10) days after receipt of written notice from the bargaining agent of the request for a meeting for collective bargaining purposes. This obligation shall include the duty to cause any agreement resulting from negotiations to be reduced to a written contract.

**§ 36-11-7.1 Unresolved issues submitted to mediation.** – (a) In the event that the bargaining agent and the chief executive or his or her designee are unable, within thirty (30) days from and including the date of their first meeting, to reach an agreement on a contract, either of them may request mediation and conciliation upon any and all unresolved issues by the director of labor and training or from any other source. If mediation and conciliation fail or are not requested, at any time after the thirty (30) days either party may request that any and all unresolved issues shall be submitted to arbitration by sending such request by certified mail, postage prepaid to the other party, setting forth the issues to be arbitrated.

(b) In the event that the negotiating or bargaining agent and the employer are unable to reach an agreement on a contract ninety (90) days before the last day on which money can be appropriated by the state to cover the first year of the contract period, then any and all unresolved issues shall be submitted to the director of labor and training for compulsory mediation until the date upon which the money is scheduled to be appropriated. The director of labor and training or his or her designee may waive this requirement upon the mutual agreement of the parties.

(c) In the event that the negotiating or bargaining agent and the employer are unable, within ten (10) days of the expiration of the contract, to reach an agreement on a contract, any and all unresolved issues shall be submitted to the director of labor and training for compulsory mediation.

(d) If the parties cannot mutually agree upon a mediator within twenty-four (24) hours, the director of labor and training shall select a mediator from a panel previously established by the director comprised of persons knowledgeable in the field of labor management relations to mediate the dispute. The department of labor and training is hereby empowered to compel the attendance of all parties to any and all meetings it deems necessary until the dispute is resolved.

**§ 36-11-8 Unresolved issues – Conciliation or fact finding.** – In the event that the bargaining agent and the chief executive or his or her designee are unable, within thirty (30) days from and including the date of their first meeting, to reach an agreement on a contract, any and all unresolved issues shall, within three (3) days, be submitted to the state labor relations board for conciliation or fact finding. The board shall immediately appoint one of its conciliators to meet with the parties and assist in a voluntary resolution of impasses. If within ten (10) days of the conciliator's appointment all impasses are not resolved, the conciliator shall make written findings of fact and recommendations with a view toward the voluntary settlement of unresolved issues, and the findings and recommendations shall be sent to the board and the parties. The parties shall have five (5) days in which to consider the recommendations of the conciliator and settle the unresolved issues, and any issues remaining unresolved shall be referred to binding arbitration in accordance with § 36-11-9.

**§ 36-11-9 Binding arbitration – Procedure.** – (a) All issues remaining in dispute after the procedures for voluntary resolution of issues provided in § 36-11-8 are exhausted shall be referred to final and binding arbitration and decision. An arbitrator shall be selected within fifteen (15) days from lists of certified arbitrators submitted by and in accordance with the rule of the American Arbitration Association, provided, however, that all names so submitted shall be of Rhode Island residents.

(b) The arbitrator shall call a hearing to be held within ten (10) days of his or her appointment and shall give at least seven (7) days written notice in writing to the bargaining agent and chief executive of the time and place of the hearing. The hearing shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding; provided, however, that a stenographic record

of the proceedings shall be kept and transcribed. Any and all documentary evidence and other data deemed relevant by the arbitrator may be received in evidence. The arbitrator shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records, and other evidence relative or pertinent to the issues presented to them for determination.

(c) The hearing conducted by the arbitrator shall be concluded within twenty (20) days of the time of commencement, and, within ten (10) days after the conclusion of the hearings, the arbitrator shall make written findings and a written opinion upon the issues presented, a copy of which shall be mailed or otherwise delivered to the bargaining agent or its attorney or other designated representative and the chief executive. The decision of the arbitrator shall be binding upon both the bargaining agent and the chief executive as to all issues and matters other than an issue which involves wages and as to that issue, the decision shall be advisory in nature.

**§ 36-11-10 Factors to be considered by the arbitrator.** – The factors, among others, to be given weight by the arbitrator in arriving at a decision shall include:

(1) Comparison of wage rates or hourly conditions of employment of the state employees involved with the prevailing wage rates or hourly conditions of employment maintained for the same or similar work of employees exhibiting like or similar skills under the same working conditions, in this state and neighboring states in private industry and public employment on state and local levels;

(2) Interest and welfare of the public;

(3) Comparison of peculiarities of employment in regard to other industries, trades, or professions, specifically:

(i) Hazards of employment;

(ii) Physical, educational and mental qualifications;

(iii) Job training and skills.

**§ 36-11-11 Fees and expenses of arbitrator.** – Fees and necessary expenses of arbitration shall be borne equally by the bargaining agent and the chief executive except that the transcript of proceedings required to be kept of the arbitration hearing shall be borne solely by the state.

**§ 36-11-12 Retirement system matters excluded from collective bargaining.** – Any and all matters relating to the employees' retirement system of the state of Rhode Island are excluded as negotiable items in the collective bargaining process.

**§ 36-11-13 Affirmative action provisions.** – (a) The director of the department of administration shall direct the associate director of human resources to include proposals for affirmative action provisions as a subject for all collective bargaining negotiations. The proposals shall include, at a minimum but not limited to, the following personnel actions: recruitment; new hires;

promotions; transfers; terminations; training and education; layoffs and return from layoff.

(b) The proposals shall also include a provision that all new and vacant positions shall be filled with due consideration to equal opportunity and affirmative action interests, especially when a manifest imbalance exists within a specific job category. Manifest imbalance, as used herein, shall mean the statistical under representation of minorities (as currently defined in federal employment law as Blacks, Hispanics, American Indians, including Alaskan Natives, and Asians, including Pacific Islanders) in specific job categories.